

BEFORE THE  
Federal Communications Commission  
WASHINGTON, D.C.

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

Application by Verizon Pennsylvania  
Inc., Verizon Long Distance, Verizon  
Enterprise Solutions, Verizon Global  
Networks Inc., and Verizon Select  
Services Inc., for Authorization To  
Provide In-Region, InterLATA Services  
in Pennsylvania

CC Docket No. 01-138

COMMENTS OF SPRINT COMMUNICATIONS COMPANY L.P.  
ON VERIZON PENNSYLVANIA'S SECTION 271 APPLICATION

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Attachment 3



## **I. INTRODUCTION AND SUMMARY**

Section 271 requires a BOC to provide interconnection on rates, terms, and conditions that are just, reasonable, and nondiscriminatory. As discussed below, Verizon fails the Section 271 checklist for several reasons. First, Verizon refuses to allow Sprint to interconnect at a single point of interconnection per LATA, as clearly required by the Commission's rules and precedent. Second, instead of allowing CLECs to order interoffice transport facilities at the same time they apply for collocation, Verizon will not accept such orders until two weeks before the collocation site is completed. Where facilities are not available, this practice can needlessly delay a CLEC's roll-out schedule by four or more months. Third, Verizon has refused to apply reciprocal compensation to local calls over existing access trunk facilities and has instead attempted to bill Sprint access charges for these calls. Fourth, Verizon continues to double charge CLECs for collocation power that they do not use. Fifth, Verizon insists that Sprint allow Verizon to collocate its equipment at Sprint's POPs, even though the Commission has expressly held that any attempt to impose ILEC obligations on non-incumbent LECs is inconsistent with the Act.

## **II. VERIZON FAILS TO COMPLY WITH SECTION 271's COMPETITIVE CHECKLIST.**

### **A. Verizon's Refusal To Allow CLECs To Interconnect At A Single Point Per LATA Violates The Act And The Commission's Rules. (Checklist Item 1)**

Section 271 requires a BOC to provide "[i]nterconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1)." 47 U.S.C. § 271(c)(2)(B)(i). Section 251(c)(2) requires the incumbent to provide interconnection "at any technically feasible point within the carrier's network . . . on rates, terms, and conditions that are just, reasonable, and nondiscriminatory." *Id.* § 251(c)(2)(B) and (D). The Commission has concluded that Section 251(c)(2) requires ILECs to allow CLECs to interconnect at a single point of interconnection per



LATA. As discussed below, Verizon refuses to allow CLECs to interconnect at a single point of interconnection per LATA, and therefore, cannot be in compliance with checklist item 1.

The Commission has repeatedly and unequivocally stated that CLECs are entitled to interconnect to an incumbent's network at all technically feasible points, including a single point of interconnection within a LATA.<sup>2</sup> The Commission has explained that this ILEC obligation is critical for achieving the goals of the Act because it "lowers barriers to competitive entry for carriers that have not deployed ubiquitous networks by permitting them to select the points in an incumbent LEC's network at which they wish to deliver traffic." Local Competition Order ¶ 209. Furthermore, "Section 251(c)(2) gives competing carriers the right to deliver traffic terminating on an incumbent LEC's network at any technically feasible point on that network, rather than obligating such carriers to transport traffic to less convenient or efficient interconnection points."<sup>3</sup> As a result, the Commission has consistently required Section 271

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<sup>2</sup> See 47 C.F.R. § 51.321(a) (2000); Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, 11 FCC Rcd 15499, ¶ 209 (1996) ("Local Competition Order"); Application by SBC Communications, Inc. Pursuant to Section 271 to Provide In-Region, InterLATA Services in Texas, 15 FCC Rcd 18354, ¶ 78 (2000) ("Texas Order"); Joint Application by SBC Communications Inc. for Provision of In-Region, InterLATA Services in Kansas and Oklahoma, 16 FCC Rcd 6237, ¶¶ 232-35 (2001) ("Kansas/Oklahoma Order"); Application of Verizon New England Inc. For Authorization to Provide In-Region, InterLATA Services in Massachusetts, CC Dkt. No. 01-9, Memorandum Opinion and Order, ¶ 197 (rel. Apr. 16, 2001) (FCC 01-130) ("Massachusetts Order"); Developing a Unified Intercarrier Compensation Regime, CC Dkt. No. 01-92, Notice of Proposed Rulemaking, ¶ 112 (rel. Apr. 27, 2001) (FCC 01-132).

<sup>3</sup> Massachusetts Order ¶ 197. While Verizon has attempted to define the term "point of interconnection" differently than the term "interconnection point," it is noteworthy that the Commission uses these terms interchangeably. See id. ¶¶ 197-199, 209-12; see also En Banc Hearing Tr. at 369-71 (Apr. 26, 2001) (App. B, Tab C, Sub-tab 27) ("4/26/01 Tr."). As Sprint has explained in the proceeding below, Verizon has attempted to distinguish the term "Interconnection Point" from the term "Point of Interconnection" by severing -- via GRIP -- the billing associated with interconnection arrangements from the physical interconnection itself. However, historically the Point of Interconnection has



applicants to prove that they allow CLECs to interconnect at a single point of interconnection per LATA in order to demonstrate compliance with the checklist.<sup>4</sup>

In spite of the clear mandate from the Commission, Verizon continues to stonewall competition in Pennsylvania by insisting on including its Geographically Relevant Interconnection Point ("GRIP") scheme in new interconnection agreements with competitors. GRIP is an interconnection artifice, invented by Verizon, that imposes costs on Verizon's competitors by requiring an interconnecting CLEC to spend additional money to build multiple interconnection points within a LATA or to pay for Verizon's costs of transporting its originating traffic to the CLEC's point of interconnection.<sup>5</sup> For traffic originating on Verizon's network, in the case of a single tandem LATA, Verizon accomplishes this either by requiring the CLEC to (1) collocate at the originating end office; or (2) credit Verizon its charges for transport, tandem switching (if required), and any other charges incurred for transporting the traffic from Verizon's end office to the CLEC. As a result, Verizon is required only to deliver its originating traffic to the end office serving that customer, and not to the CLEC's point of interconnection.<sup>6</sup> In

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been used for both billing and as the physical location for hand-off of traffic. This billing fiction has been created by Verizon to increase CLEC's interconnection costs, while at the same time decreasing Verizon's costs. See Sprint Response to E-mail Request (May 23, 2001) (attached at Appendix A).

<sup>4</sup> See Texas Order ¶ 78 ("[A] competitive LEC has the option to interconnect at only one technically feasible point in each LATA."); see also Massachusetts Order ¶ 197; Kansas/Oklahoma Order ¶¶ 232-35.

<sup>5</sup> See Sprint Communications Company L.P. and The United Telephone Company of Pennsylvania, Initial Comments at 13-14 (Feb. 12, 2001) ("Sprint Initial Comments") (attached at Appendix B).

<sup>6</sup> Verizon has proposed various versions of GRIP throughout its region. The version offered to Sprint, as described above, is called VGRIP -- Virtual Geographically Relevant Interconnection Points -- by Verizon. Other versions do not allow the CLEC the option of crediting Verizon's charges for transport and instead require the CLEC to collocate.



contrast, for traffic originating on the CLEC's network, again in the case of a single tandem LATA, the CLEC must deliver the traffic to either (1) the Verizon end office serving the Verizon terminating customer, or (2) a collocation site at Verizon's end office. This scheme essentially shifts the cost of transport for Verizon's originating traffic to the CLEC, thus requiring the CLEC to bear the costs of transport for both its own and Verizon's originating traffic.<sup>7</sup> Such a requirement impermissibly requires the CLEC to shoulder Verizon's costs of serving its end-user customers, in violation of the Commission's rules.<sup>8</sup>

Moreover, Verizon's actions are inconsistent with the decision of the U.S. District Court of the Middle District of Pennsylvania. In the MCI-Bell Atlantic arbitration proceeding, the PUC reached a more reasonable, but similarly unlawful, resolution to the dispute between the parties regarding points of interconnection. The PUC ordered MCI and Verizon to incorporate terms into their interconnection agreement requiring a single point of interconnection per access

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Still other versions allow Verizon to request that the CLEC collocate, but give the CLEC the right to seek arbitration instead of complying. Verizon has characterized this proposal as a financial choice for the CLEC. Regardless of that characterization, the economics are the same for the CLEC with the end result that Verizon's interconnection scheme impermissibly shifts Verizon's transport costs to the CLEC and in effect precludes the CLEC from interconnecting at a single point per LATA as required by the Commission.

<sup>7</sup> See Sprint Initial Comments at 13; see also *id.*, Declaration of Gerald Flurer ¶¶ 8, 9 (Feb. 12, 2001) ("Flurer Decl.") (attached at Appendix B) (explaining that GRIP would force Sprint to be "financially responsible for delivering traffic originated on its network to Interconnection Points at Verizon's end office switches, located deep within Verizon's network, while Verizon would have no reciprocal obligations for the traffic it delivers to Sprint."). The Massachusetts DTE found a similar scheme to be unlawful. See Massachusetts D.T.E. 98-57, Investigation by the Department on its own motion as to the propriety of the rates and charges set forth in the following tariffs: M.D.T.E. Nos. 14 and 17, Mar. 24, 2000 at 78-79 <<http://www.state.ma.us/dpu/telecom/98-57/FinalOrder.htm>>.

<sup>8</sup> Cf. Local Competition Order ¶ 1062 (recognizing that, for trunking, each carrier should only pay for transport of traffic it originates).



tandem, resulting in more than one point of interconnection in any LATA served by two or more access tandems.<sup>9</sup> On review, the District Court remanded to the PUC with instructions to reform the agreement in accordance with Commission rulings to permit MCI to interconnect with Verizon's network at one point in each LATA.<sup>10</sup> Although an appeal is pending, no stay of the District Court's decision has been granted and it is thus binding law. See 4/26/01 Tr. at 357. Despite this fact, Verizon continues to insist that CLECs acquiesce to its demands for multiple points of interconnection per LATA.<sup>11</sup> Although GRIP requires multiple points of interconnection per tandem, and is thus distinct from the single point of interconnection per tandem requirement that was at issue in the District Court decision, for single tandem LATAs, GRIP in fact imposes *even more onerous* interconnection terms on CLECs than those found

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<sup>9</sup> See Joint Application of Bell Atlantic-Pennsylvania, Inc. and Petition of MCIMetro Access Transmission Services for Approval of an Interconnection Agreement Under Section 252(e), A-310236, Folder 00002, Opinion and Order (Sep. 3, 1997) (App. B, Tab O, Sub-tab 11); see also 4/26/01 Tr. at 357.

<sup>10</sup> See MCI Telecommunications Corp. v. Bell Atl.-Pa., Inc., Civil No. 1:CV-97-1857 (M.D. Pa. June 30, 2000), at 14-15 (App. B, Tab O, Sub-tab 17). A number of other courts have similarly upheld a CLEC's right to interconnect at a single point of interconnection per LATA. See, e.g., US West Communications v. AT&T Communications of the Pac. Northwest, Inc., No. C97-1320R, 1998 U.S. Dist. LEXIS 22361 at \*26 (W.D. Wa. July 21, 1998) (contention that the "Act requires a CLEC to have a POI in each local calling area in which that CLEC offers local service" is "wrong"); US W. Communications, Inc., v. Minnesota Pub. Utils. Comm'n, No. Civ. 97-913 ADM/AJB, slip op. at 33-34 (D. Minn. 1999) (same); US W. Communications, Inc., v. Arizona Corp. Comm'n, 46 F. Supp. 2d 1004, 1021 (D. Ariz. 1999) (requiring CLECs to establish a point of interconnection in each local exchange "could impose a substantial burden upon CLECs, particularly if they employ a different network architecture than [the incumbent]"); US W. Communications, Inc. v. AT&T Communications of the Pac. Northwest, Inc., 31 F. Supp. 2d 839, 852 (D. Or. 1998) (same); US W. Communications, Inc. v. MFS Intelenet, Inc., No. C97-222WD, 1998 WL 350588, \*4 (W.D. Wa. 1998), aff'd, 193 F.3d 1112, 1124 (9<sup>th</sup> Cir. 1999) (same).

<sup>11</sup> See 4/26/01 Tr. at 363-64 (explaining Verizon's position that it is willing to force a CLEC into arbitration to obtain multiple points of interconnection per LATA in some cases).



unlawful by the court. GRIP plainly runs afoul of the court's mandate that Verizon allow CLECs to interconnect at a single point of interconnection per LATA.<sup>12</sup>

Nor can Verizon finesse its failure by relying on Section 252(i) to meet this checklist item. In prior Section 271 orders, the Commission has held that an applicant has complied with its statutory obligations to interconnect at a single point in a LATA if it has executed at least one interconnection agreement that allows a single point of interconnection per LATA. See Massachusetts Order ¶ 197; Kansas/Oklahoma Order ¶ 232; Texas Order ¶ 78. The Commission reasoned that any requesting carrier would then be able to opt into that provision pursuant to Section 252(i). See Massachusetts Order ¶ 197; Texas Order ¶ 78. In Pennsylvania, not only has the PUC denied carriers their right to interconnect at a single point of interconnection per LATA, but by Verizon's own admission, *there are no interconnection agreements subject to Section 252(i) that are available for carriers to choose that include this provision*. Specifically, in response to a data request by the PUC in the proceeding below, Verizon stated:

Request: Is there an interconnection agreement that a CLEC can opt into in [Pennsylvania] today that has the one point of interconnection per LATA, the CLEC gets to choose, opt into it?

\* \* \*

Verizon response: There are no interconnection agreements in Verizon-PA that a CLEC can opt into that contain a provision which allows the CLEC to designate a single interconnection point per LATA. Furthermore, the expired MCI agreement contains no such provision either. Rather, the expired Verizon-PA/MCI agreement stipulates that MCI establish at least one interconnection point in each Verizon-PA tandem serving area, as the Commission ordered in the

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<sup>12</sup> See id. at 358 ("Verizon has a proposal referred to as GRIPS, geographically relevant interconnection points, which require[s] even more interconnection points than has been required in the MCI case."); Technical Conference Tr. at 102-103 (Mar. 2, 2001) (App. B, Tab C, Sub-tab 12) ("3/2/01 Tr.").



MCI arbitration. In addition, all Verizon PA interconnection agreements designate multiple Verizon IPs for use by the CLEC.<sup>13</sup>

Although Verizon has assured the PUC that there are agreements available for opt-in that do not contain GRIP, it appears that these agreements require CLECs to interconnect at a single point of interconnection *per tandem* -- not at a single point of interconnection *per LATA* -- as required by the Commission's rules. See Verizon Response to In-Hearing Data Request No. 66 (Mar. 5, 2001) (App. B, Tab D, Sub-tab 10).

As a result of its continued obfuscation of the issue, Verizon has been thus far able to ignore its interconnection obligations without consequence. Verizon has denied CLECs their legal rights to a single point of interconnection *per LATA*. The local exchange market in Pennsylvania cannot be irreversibly open to competition so long as Verizon is allowed to raise its rivals' costs contrary to federal law. The Commission cannot find that Verizon is in compliance with this item of the competitive checklist.

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<sup>13</sup> See Verizon Response to In-Hearing Data Request No. 64 (Mar. 5, 2001) (App. B, Tab D, Sub-tab 10). Despite this response, the PUC concluded in its Consultative Report that Verizon "has existing interconnection agreements that permit competing carriers to interconnect at a single point on Verizon PA's network." Application by Verizon Pennsylvania for Authorization to Provide In-Region, InterLATA Services in Pennsylvania, CC Dkt. No. 01-138, Consultative Report, PUC at 47 (FCC June 25, 2001) ("PUC Report"). This conclusion likely stems from other contradictory statements made by Verizon that such agreements are available in Pennsylvania. See 4/26/01 Tr. at 360, 364. For example, Verizon has identified the Network Access Solutions and Mpower interconnection agreements as examples of agreements that allow a single point of interconnection *per LATA*; however, these agreements similarly require the CLEC to either collocate at multiple points in a LATA or to pay for Verizon's costs of transport. See Lacouture-Ruesterholz Decl. ¶ 9 (App. A, Tab A); Network Access Solutions, Inc. Interconnection Agreement, § 4 (June 20, 2000) (App. C, Tab H); MGC Communications, Inc. Interconnection Agreement, § 4 (May 12, 2000) (App. C, Tab G). They do not allow a CLEC to designate a single point of interconnection *per LATA*. Sprint has been unable to identify any interconnection agreement available for opt-in pursuant to Section 252(i) that does.